

IN THE SUPREME COURT OF THE STATE OF NEVADA

MYRON BRUCE CALHOUN,
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,

Respondents,

and

THE STATE OF NEVADA,
Real Party in Interest.

No. 53425

FILED

JUN 05 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION

This original petition for a writ of mandamus seeks an order from this court directing the district court as to the appropriate remedy when the district court grants a defense motion for an independent psychological examination of the victim of an alleged sexual assault but the victim refuses to submit to the examination. Having reviewed the petition, we conclude that this court's intervention by way of extraordinary relief is not warranted at this time for two reasons.

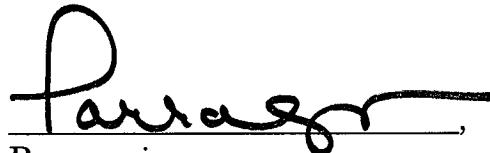
First, petitioner has not demonstrated that the district court has refused to "perform[] . . . an act which the law especially enjoins as a duty resulting from an office, trust or station," NRS 34.160, or that the district court arbitrarily or capriciously exercised its discretion, see Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). Instead, the petition seeks an advisory opinion from this court on an issue that petitioner argues was left open by this court's decision in Abbott v.

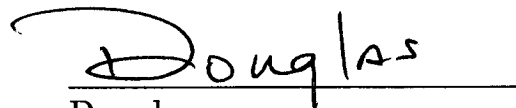
State, 122 Nev. 715, 138 P.3d 462 (2006). This court, however, does not issue advisory opinions on abstract questions. See Applebaum v. Applebaum, 97 Nev. 11, 621 P.2d 1110 (1981).

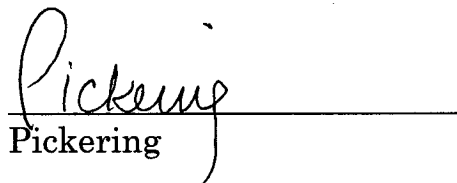
Second, petitioner has “a plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.170. In particular, petitioner may raise any issue regarding the district court’s ultimate decision on the evidentiary issue on direct appeal in the event that he is convicted.

For these reasons, we deny the petition for a writ of mandamus.

It is so ORDERED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Law Office of Betsy Allen
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk